

only for his history, but also for his approach to life and the example he left us.

GUARDSMEN AND RESERVISTS FINANCIAL RELIEF ACT OF 2003

SPEECH OF

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 21, 2004

Mr. BACA. Mr. Speaker, I rise in support of the Guardsmen and Reservists Financial Relief Act of 2003.

This bill allows military reservists or national guardsmen to make withdrawals from their retirement plans without incurring penalties.

Unfortunately, this bill is a short-term fix for a larger problem.

Why hasn't the Administration and Congress done more to help reservists and soldiers in Iraq?

Our brave men and women are fighting and dying in Iraq. Their families are struggling to get by.

We need to help our soldiers.

We can start by giving targeted pay raises. We can give meaningful tax relief for military families, not tax cuts for the rich that President Bush supports.

We can make sure they receive the benefits and healthcare that they have more than earned!

We can make sure that our veterans, those brave Americans who already gave so much for this country are also taken care of.

Over 500,000 veteran's benefits claims are still pending in the VA. My bill, H.R. 1264, will help reduce this backlog of claims. This is the type of help our soldiers and veterans need!

Our reservists, soldiers, and veterans deserve our help! Let's not keep them waiting any longer!

Congress has to put its money where its mouth is when it comes to taking care of those who help protect this nation. We have no other choice.

EXPLANATORY STATEMENT ON H.R. 4062

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 22, 2004

Mr. MANZULLO. Mr. Speaker, on March 31, 2004, the House took up consideration and passed H.R. 4062, a bipartisan bill to resolve problems associated with the restrictions imposed by the Small Business Administration on loans made pursuant to §7(a) of the Small Business Act. The bill was then passed by the Senate and signed into law by the President. Since the bill was taken directly to the floor, no committee report accompanies the bill. As Chairman and on behalf of the Ranking Democratic Member, NYDIA M. VELÁZQUEZ, I am submitting for insertion into the RECORD, the attached explanation of the bill by its sponsors. We would expect the Administrator, in implementing the provisions of H.R. 4062, to accord the enclosed explanation the same weight in divining congressional intent that the Administrator would give to a committee report

on a bill that first went through a mark-up prior to floor consideration.

JOINT EXPLANATORY STATEMENT ON H.R. 4062
Filed by Chairman MANZULLO for himself and
Ranking Democratic Member VELÁZQUEZ
Section 1. Additional Temporary Extension
of Authorization

Temporary authorizations are needed to ensure continued operation of certain programs authorized by the Small Business Act and Small Business Investment Act of 1958. This section extends those programs while the House and Senate work out their differences on a broader reauthorization package.

Section 2. Extension of Certain Fee Authorizations

The qualified state and local development company (referred to in this statement as "certified development company" or "CDC") program authorized by Title V of the Small Business Investment Act of 1958 operates on fees charged by the Administrator to lenders. Those fees need to be reauthorized to prevent the program from ceasing operation. Given the complexity of the financing arrangements loans made pursuant to Title V, CDCs and small businesses need sufficient time to develop the appropriate financing packages and submit applications to the Administrator. To accommodate the needs of lenders and borrowers under Title V, the sponsors determined that an extension of the fee authorization through the end of the fiscal year would be appropriate. Furthermore, the sponsors believe that if the recent problems in the loan programs authorized by 7(a) of the Small Business Act were resolved through the end of this fiscal year, equity demands that CDCs be able to operate unencumbered for the same period.

Section 3. Fiscal Year 2004 Purchase and Guarantee Authority under Title III of the Small Business Investment Act of 1958

The Small Business Investment Company ("SBIC") program operates without the use of appropriated funds. Fees and profits are used to cover the cost of the program, including coverage of losses in investment portfolios. While the sponsors believe that the fees authorized for the purchase of securities and debentures would allow the program to continue full operation without modification to the authorization levels, clarification to ensure that the program could continue operations was an appropriate course of action. To avoid any possible confusion or action by the Administrator to curtail the operation of the program, the sponsors extended the authorizations for both the purchase of participating securities and guarantees of debentures at FY 2003 levels for the rest of the fiscal year.

Section 4. Combination Financing

For a number of years, the Administrator authorized the use of so-called piggyback financing when using the loan program authorized by 7(a) of the Small Business Act. The Administrator defines "piggyback financing" as a situation in which "one or more lender(s) provides more than one loan(s) to a single borrower at or about the same time, financing the same or similar purpose, and where the SBA guarantees the loan secured with a junior lien position." Small Business Administration, Standard Operating Procedure 50-10(4)(E), at 20. Furthermore, the Administrator notes that the determination of "piggyback financing" requires an assessment of both the lien position and the commonality of purpose. Id.

Earlier in the year, the Administrator, presumably pursuant to the authority set forth in §7(a)(24) of the Small Business Act, made

certain policy changes to the operation of the guaranteed loan program. In particular, the Administrator prohibited the use of piggyback financing.

The sponsors believe that "piggyback financing" plays a valuable role in the provision of capital to small businesses. This is particularly the case for small businesses requiring larger loans in cyclical sectors of the economy. The financing technique is quite similar to that statutorily authorized in Title V of the Small Business Investment Act of 1958.

Section 4 creates, for the rest of fiscal year 2004, a temporary combination-financing program by adding a new paragraph (31) to §7 of the Small Business Act. The provisions sunset at the end of the fiscal year, i.e., at the end of the day on September 30, 2004.

The sponsors adopted the more formal language "combination financing" rather than the term "piggyback financing." The sponsors define "combination financing" as a loan consisting of both a commercial loan and a guaranteed loan. A commercial loan is defined as one that has no portion guaranteed by the government. The sponsors intend the term "combination financing" to have the same characteristics as "piggyback financing" as that term is used in the Small Business Administration's Standard Operating Procedure already cited in this statement.

The authorization of combination financing is limited to those situations in which the small business concern (borrower) obtains both a guaranteed loan pursuant to §7(a) of the Small Business Act and a commercial loan. Again the sponsors intend that the provision should operate in a manner similar to the Small Business Administration's determination that the commercial and guaranteed loans are obtained for the same or similar purposes and the loans are originated and disbursed (in whole or in part) at about the same time.

To ensure that the public fisc is protected even when the Administrator's lien is subordinate to the commercial loan, the sponsors restricted the size of the combination loan to that of the guaranteed loan. In other words, there is a one-to-one ratio between the commercial and guaranteed loans. While the commercial loan cannot exceed the size of the guaranteed loan, the sponsors do not intend to prevent a commercial loan from being smaller than the guaranteed loan.

The sponsors authorize the commercial loan may be made by the lender that is making the guaranteed loan. However, the sponsors also permit the commercial loan to be made by a different lender as long as the loans meet the simultaneity of time and purpose already limned. In addition, the sponsors also authorize lenders designated as "Preferred Lenders" by the Administrator to make the commercial loan in such combination financings.

The sponsors also authorize lenders designated as "Preferred Lenders" by the Administrator to make the commercial loan in combination financings. In order to expedite the processing of combination financings in these circumstances, it is the sponsors' intent that the Administrator process applications for combination financings submitted by such "Preferred Lenders" through the Preferred Lenders Program Processing Center.

The sponsors explicitly authorize the commercial loan to be secured by a lien senior to that of the guaranteed loan. Nothing in this provision prevents the Administrator from continuing or discontinuing this practice after September 30, 2004 unless directed otherwise by statute.

In normal commercial transactions, lenders that take a subordinated lien position on